IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10629 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HARSHADBHAI RAMBHAI PATEL - Petitioner(s)

Versus

MANAGER - Respondent(s)

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Appearance :

MR MUKESH H RATHOD for Petitioner No(s).: 1.

MR DEEPAK V PATEL for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 01/07/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 12nd October, 1998 passed by the Labour Court, Anand in Reference [L.C.A.] No. 79 of 1992 whereby the said Reference was rejected.

2. The short facts of the case are that the petitioner was initially appointed as a Casual Labourer in the Production Department of respondent. Thereafter, the respondent, after giving some artificial breaks in service, issued various appointment orders to the petitioner for a fixed period. It is the case of the petitioner that the respondent without following any procedure under the Industrial Disputes Act, 1947 orally terminated his services.

2.1. Being aggrieved by the oral termination of his services, the petitioner raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after appreciating the materials placed before it, rejected the said Reference. Hence, this petition.

3. Mr. Mukesh Rathod learned advocate for the petitioner has contended that the Labour Court has erred in not appreciating the fact that the services of the petitioner were terminated without following any procedure under the Industrial Disputes Act, 1947. He has further contended that though the petitioner has worked continuously for 240 days in the preceding year, the Labour Court has termed the order of termination as legal and justified, which is contrary to the facts of the case and, therefore, the impugned awards deserves to be quashed and set aside.

4. Mr. Deepak Patel learned advocate for the respondent has submitted that Labour Court was justified in rejecting the Reference *inasmuch* as the petitioner was appointed as a Casual Labourer and was not appointed on regular basis and, therefore, the petitioner has no right to re-employment.

5. I have heard the learned counsel for the respective parties and have perused the materials placed on record. As a result of this, I am of the opinion that the Labour Court in its impugned award has held that provisions of “retrenchment” shall not be applicable to Causal Labourers and in view of the provisions of Section 2(oo)(bb) of the Industrial Disputes Act, it was not “retrenchment” under Section 25F of the Industrial Disputes Act, 1947. Hence, the Labour Court was justified in rejecting the reference. I am in complete agreement with the reasonings given by the Labour Court, and find no reason to interfere in this petition.

6. In above view of the matter, the petition is dismissed. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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